1	TOWN OF WINDHAM, NH
2	BOARD OF SELECTMEN MEETING
3	June 12 <sup>th</sup> , 2023
4	Community Development Department
5	3 North Lowell Rd.
6	Approved Minutes
7	•••
8	Attendance:
9	Chairman Ross McLeod- present
10	Vice Chair Heath Partington- present
11	Mark Samsel- present
12	Bruce Breton- present
13	Roger Hohenberger- present
14	
15	Staff:
16	Brian McCarthy- Town Administrator
17	Alexander Mello- Community Development Department
18	
19	Announcements
20	
21	Mr. Samsel said that the Windham Flat and Fast road race on the Windham Rail Trail was a
22	success and wished to thank those that helped out.
23	
24	Mr. Samsel stated that the Windham Economic Development Committee would like the Board
25	to reengage the Route 111 traffic study.
26	
27	Mr. Hohenberger stated that the Memorial Day Parade and the Strawberry Festival were both
28	well attended and well put together and wished to thank those involved.
29 30	Mr. McCarthy said that work on the inclusive playground project has begun. The demolition of
31	the area was done on June 7 <sup>th</sup> and June 8 <sup>th</sup> . The structures are being delivered to the play
32	ground area. Updates on the project will be on Fridays on social media.
33	ground area. Opdates on the project will be on tridays on social media.
34	The 4 <sup>th</sup> of July is on a Tuesday, Mr. McCarthy asked about the holiday schedule and if town
35	employees might be allowed to have the Monday the 3 <sup>rd</sup> off as well.
36	employees might be anowed to have the Monady the 5° on as well.
37	The Board discussed in relation to the current contracts. The current contracts do not account
38	for this as a holiday so they are not comfortable granting this as a holiday/vacation day.
39	and the many recommendation of the many recommendation and
40	Chairman McLeod wished to thank Mr. Wimmer and those that worked on the cross-country
41	trail at the high school.
42	

Cable Committee- Franchise Fee Agreement

Ms. Margaret Case, Chairman of the Cable Board, addressed the Board. Ms. Case finds the changes to be simple. Concessions would be to give up channel 30 along with a few other items. Town related events will be on the town channel. The contract has been reviewed by counsel and the town's administrator. Chairman McLeod invited public comment; there was none.

The Board discussed the length of the contract which would be 10 years. Ms. Case discussed the funding of cable and how they have been savings for these types of costs. The Board is in agreement that there should be a public hearing in 2 weeks time. Mr. Breton was very appreciative of the packet provided by legal counsel and how well organized the packet was for the Board. Ms. Case stated that they will need 18 months in order to put it in their budget.

## Cemetery/Wendy Devlin

Ms. Wendy Devlin addressed the Board. Ms. Devlin stated that there was \$90,000 in ARPA money allotted for this project. There were 2 proposals, they were passed on to Mr. Senibaldi, the Cemetery Committee did vote to support Mr. Senibaldi's recommendation last week. Mr. Senibaldi stated that there was one proposal to tie into the plumbing that is already there. Mr. Senibaldi stated that a good portion of the cemetery does flood out. Mr. Senibaldi stated that Mr. Jim Devlin also came out to look at the project.

Ms. Devlin stated that there will not be work done on the road in this proposal. This will all be linked up to the plumbing that is already out there. Mr. Senibaldi stated that the second proposal will not be going towards any graves. The first proposal would be potentially going closer to the graves and they would be a small area to work in. Mr. Hohenberger asked if there was a warranty on his work. Mr. Senibaldi stated that it falls to him and his department to make sure the work is functioning properly. Ms. Devlin stated that the proposal cannot make the left side any worse; there has always been water on this side; this can only make the left side better.

Mr. Samsel stated that the \$30,000 difference is a big gap. There are removing from the cul de sac back and that is the major factor in the difference between the prices. There will be binder put in the area and asphalt will be removed.

A motion was made by Mr. Samsel to authorize the cemetery trustees to engage the services of United Sitework Associates for the cemetery bid not to exceed \$87,780. Seconded by Mr. Breton. Vote 5-0. Motion passes.

Moving the town meeting election to May

Chairman McLeod reviewed why they might want to consider a change in the town meeting day.

Ms. Shannon Ulery, Vice Chair of the School Board, addressed the Board. Ms. Dalissa Greenleaf and other school Board members were in attendance (Ms. Cynthia Finn, Chairman Senibaldi, and Stephanie Wimmer, all school Board members). Vice Chair Ulery stated that the School Board does think moving the election will have an adverse effect on recruitment of new teachers for the upcoming school year. Vice Chair Ulery stated that it has been a challenge to find and retain staff. Teachers must notify the district by April 15<sup>th</sup> each year. Business administrators and staff have to have the proper amount of time to make decisions. Vice Chair Ulery stated that this would not give the district sufficient time to approve the budget. Also, any work done on the properties is best done when the students are not on the property in the summer. Vice Chair Ulery stated that the weather is better in May but there are RSAs to allow for the meetings to be postponed as needed.

Chairman McLeod listed out the voter turnout year by year for the last several years and noted if there were weather issues in these years.

Chairman McLeod mentioned the idea that had been discussed of moving to a Saturday if bad weather is forecast. The pros do not appear to outweigh the cons, the pro of better weather does not outweigh the cons of being able to attract and retain the talent they are known for. Chairman McLeod stated that they want to make sure the school district stays capable of meeting their timelines and obligations.

Ms. Joanne Comptois, Edgewood Road, ran into problems this year while trying to obtain an absentee ballot to vote. Last year, she tried to vote absentee, yet, she was not able to get an absentee ballot so she could not get anything mailed to her to vote. There is a lot of elderly that go away in the winter and they want to do their civic duty. Ms. Comptois stated that she thinks it should be consider to be moved, it has worked in Moultonborough according to her. Ms. Comptois stated that she did send a letter to the Windham Independent. Ms. Comptois is in favor of changing it from March and she would like to continue her civic duty.

Mr. Peter Griffin, the town moderator, addressed the Board. Mr. Griffin wished to thank Chairman McLeod for listing the statistics. Mr. Griffin stated that in 2017, they made a decision against the law and he made a choice to move the election. Mr. Griffin stated that there were extensive planning and weekly meetings. Mr. Griffin stated that absentee ballots could have been requested through the town clerk's office ahead of time and those ballots could be turned in ahead of time. Mr. Griffin stated that he would maintain having the election remain where it is.

Ms. Nikki Merrill, the town clerk, addressed the Board. Ms. Merrill stated that the deliberative session dates, the election and other candidacy votes are always changing from year to year. Ms. Merrill stated that the absentee ballot requests are sent out as soon as they obtain the ballots. Ms. Merrill stated that they have to acquire 18 months of taxes and that is a burden on the tax payer. Ms. Merrill stated that changing the date to later in the spring is not in the best interest of the town. Ms. Merrill stated that they struggled with making the decision to call the

election this year because it was not a state of emergency. Mr. Hohenberger asked why they were skipping over April as an option. Ms. Ulery stated that the reason they focused on May is because Mr. Wayne Morris had first suggested this month so that is why they looked at it as an option. Ms. Ulery stated that once they get the job postings and budget, they are posting the jobs.

Ms. Griffin stated that they there is now an RSA that allows local municipalities to change the elections.

Mr. Wayne Morris addressed the Board. Mr. Morris stated that he wished to thank the Board for having this workshop. Mr. Morris does not see a great difference between May and April; he does see the value in considering moving it to April. Mr. Morris went through the process of how municipalities acquire their money and why a May date might even be advisable. Mr. Morris reviewed some of the advantages to potentially changing the timeline of the election. Mr. Morris wrote a letter to the state to ask for the list of towns that have changed their election dates.

Ms. Stephanie Wimmer addressed the Board. Ms. Wimmer stated that recruitment, retention and capital projects are the 3 main reasons for why an April date would not be advisable for the school district. Ms. Wimmer does think it would put the town at a disadvantage especially for projects and hiring.

Chairman McLeod asked about the fiscal tax impacts. Mr. McCarthy stated there would be fiscal challenges and they would be voting in a much larger budget.

Ms. Betty Dunn, school district moderator addressed the Board. Ms. Dunn stated that they have not yet discussed the fiscal year and this should also be considered Ms. Dunn stated that, perhaps, we should be considering whether or not to change the fiscal year of the town. Ms. Dunn stated that one of the factors for a town to consider is information from the National Weather Service. Ms. Dunn stated that if the election is not held on the date set forth when the school is closed, then when is it going to be held on another date.

Vice Chair Partington stated that teacher recruitment was the most important factor to him. Vice Chair Partington stated that perhaps there can be a snow date that can be set up ahead of time for both volunteers and the public but he does not think it makes sense to make the date at this time.

Mr. Bob Coole addressed the Board. Mr. Coole asked when did the Board expect to give people the right to change the vote to govern themselves.

Mr. Breton suggested making a call to the New Hampshire Municipal Association. Chairman
 McLeod asked how the Board would like to proceed. Chairman McLeod also stated that this
 does not bind a future Board to any decision. Mr. Hohenberger is open to having another
 discussion in September. Mr. Samsel stated that his concern is around the financial process. Mr.

Samsel stated that he understands that there would be a financial shift that the town would have to go through to potentially make these changes. Mr. Samsel thinks that September might be too much time to wait to make a decision. M. Breton does think September is a good time frame. Vice Chair Partington does not think another meeting is necessary. Mr. McCarthy will set this as an agenda item for the first meeting of September at the advisement of the Chairman.

180 181

182

Vice Chair Ulery addressed the Board to state that the 2017 statistics might have been linked to the Golden Brook construction project, hence, the reason the voting numbers were high for a snow event.

183184

Large Format Printer Bid Review

185 186 187

188

189

190

191

Mr. Alexander Mello, Community Development Director, addressed the Board. Mr. Mello stated that this is a 19-year-old machine that they cannot get repaired. There were 3 bids for 2 different types of machines. There are only 2 bids that met the request and those are the only 2 that he is interested in looking at. Mr. Mello stated that the low bid came from Spiller's and this is a company that they have been doing business with them for several years. Mr. Samsel asked about the warranty on the current machines.

192193194

A motion was made by Mr. Hohenberger to award the bid to the Canon TM305 to Spiller's in the amount \$12,477.45. Seconded by Mr. Samsel. Vote 5-0. Motion passes.

195196197

Mr. Breton appreciated the extensive memo sent by Mr. Mello to the Board

198 199

A motion was made by Mr. Breton to recess the Board of Selectmen and reconvene the Board of Health. Seconded by Mr. Samsel. Vote 5-0. Motion passes.

200201

Mr. Mike Maguire is joining the Board as the 6<sup>th</sup> member of the Board of Health.

202203204

205

Chairman McLeod stated that they did not properly notice abutters during one of the recent requests. Chairman McLeod reviewed the history of the 2 lots as they had been presented and the previous votes.

206207208

A motion was made by Mr. Breton to reconsider the vote on May 1<sup>st</sup> for 43 First St and 20 First St. Seconded by Mr. Samsel. Vote 6-0. Motion passes.

209210211

The cases are being heard separately.

212213

43 First St. for the proposal of the septic system.

214

McLeod filled in the history of the lot as has been presented to the Board in the past as well as the current proposal.

217

Mr. Joseph Maynard of Benchmark LLC addressed the Board. There is an existing well in sealed bedrock and there is a septic system that is 25 feet away. Mr. Maynard stated that they are able to move it up to 30 feet away from the well. Mr. Maynard stated that there is an existing system sitting in the water table.

222223

224

225

Mr. Hohenberger asked about seasonal loading and year-round loading. Mr. Maynard stated that the loading is the same. Mr. Hohenberger asked how many months a seasonal dwelling can be inhabited. Mr. Maguire did not know of a number on the books for seasonal occupation. Mr. Samsel stated that dwellings needed to be to code.

226227228

229

230

Mr. Alexander Mello stated that a seasonal dwelling is defined as a dwelling to be primarily inhabited in the summer months This information can be found in Section 1200 and was adopted as of March 8, 1988. Mr. Maynard stated that the existing system on the property is not causing any problems.

231232233

Mr. Maynard stated that Mr. Spaulding is in attendance if he would like his expertise about the Clean Solutions system. There is a separation from the water table in this new system. Mr. Maynard stated that they have improved the product as best they could.

235236237

238

234

Mr. Charlie Marsden, 0 Viau Road, addressed the Board. Mr. Marsden mentioned the culvert in the area. Mr. Marsden asked if you could swim or drink the water that came out of a clean solution system.

239240241

242

Mr. Maynard stated that the septic system that is in the ground now, the wetland does end up in that system. Mr. Maynard stated that 99% of the time the affluent is not going to make it into that system except for during a very wet year.

243244245

Mr. Gary Spaulding with Advanced Onsite Solutions addressed the Board. Mr. Spaulding stated that they still need a soil base of sand and there is no way to remove the contaminates; you must use soil to do that. Mr. Spaulding state a system in the water table is not efficient at all.

247248249

246

Mr. Maguire returned to the discussion of a year-round dwelling and stated that there is a date of when they needed to get the seasonal status removed but there is no number in how long they can be in the home.

251252253

250

Mr. Marsden asked about swimming in the affluent. Mr. Maynard said he would if it went through the proper filtration as described.

254255256

A motion was made by Mr. Breton to give relief from Section 102.2 for 43 First St. Seconded by Mr. Samsel.

257258

259 Comment: The scope is relative to the current septic tank and allowing the distance in the 260 increase of the well. M. Samsel stated that this was a classic improvement. This is considered a 261 betterment. 262 263 Mr. Hohenberger stated that the reason he is opposed is that it is way below the required 75 264 feet. The approval goes with the lot and not the owner. 265 266 Vote 5-1. Mr. Hohenberger opposed. 267 Mr. Hohenberger was asked to recuse himself as a family member lives on 4<sup>th</sup> St. Mr. 268 269 Hohenberger recused himself for the next case. 270 271 20 First St. 272 273 Mr. Joseph Maynard of Benchmark LLC addressed the Board. There is a dug well on the 274 property but that well would be filled in and a new well would be drilled. This well would be in 275 bedrock with the casing as well. Mr. Maynard stated that there will not be an infiltration issue 276 as a result. 277 278 Next, there is the septic system. The new well is 64 feet from the septic. 279 280 Mr. Maynard stated that is 2015, there was a vote 2 houses up from this house for approval if a 281 40-foot separation between that well and where they were putting the proposed septic system. 282 Mr. Maynard submitted this information as evidence. Mr. Maynard stated they are doing 283 everything they can to make this system as compliant as possible. 284 285 Mr. Hohenberger, 5 Thomas St, addressed the Board. Mr. Hohenberger stated that citizens 286 recently votes to protect the pond. Mr. Hohenberger also stated that the town recently 287 approved the new Master Plan and an environmental planner. Mr. Hohenberger stated that 288 Cobbetts Pond is a now a eutrophic pond. This septic system is 40 and 30 feet from proposed 289 wells. Mr. Hohenberger sees that this is in violation of the town ordinance. 290 291 Ms. Jackie Saba an abutter, addressed the Board. Ms. Saba stated that she is strongly opposed 292 to this proposal and she has been since the beginning. Ms. Saba stated that the proposal is less 293 than half the distance and she does see this as a violation. 294 295 Mr. John Boss, 10 Viau Rd. addressed the Board. Mr. Boss asked how long it has been since a 296 structure was on the property. Mr. Maynard stated that there has not been a structure on the 297 property since 2012. 298 299 Ms. Phyllis addressed the Board. She does not have a well that will be affected but 300 she does agree with her other neighbors that this should not be allowed. 301 302 Mr. Maynard stated that they are now 75 feet from the other 2 wells; that is an old plan. Mr. Maynard stated that there is a well 40 feet away from an abutting well and another that is 64 303

feet setback to the onsite solution.

304

305

Vice Chair Partington stated that he would like to vote for a plan with accurate setbacks.

Ms. Phyllis Churchill addressed the Board. Ms. Churchill stated that her septic system is 70 feet from the proposed leeching field. Ms. Churchill asked about the stream and she is not sure if this stream has really ben addressed. Mr. Churchill is concerned about the stream that runs into the water is being addressed.

Mr. Maynard does not see the need to continue the case into another evening.

- Chairman McLeod asked if the water was safe for human consumption and is the wastewater. Mr. Samsel stated that the concern is that the postings are not being posted accurately. Mr.
- Mr. Samsel stated that the concern is that the postings are not being posted accurately. Mr. Maguire is fine with continuing on with the meeting this evening. Mr. Samsel is reluctant to proceed. Vice Chair Partington would like to hear from people this evening.

Ms. Saba asked for clarity around the well locations from Mr. Maynard.

Mr. Maynard discussed the relief requested. Mr. Maynard stated that these are relief from their own well and the wells on top of the wall that is beyond the map. Mr. Maynard stated that the proposed well will be in bedrock and the septic will not be affected by the well because of conditions of installation.

Mr. Gary Spaulding addressed the Board. Mr. Spaulding stated that there are 124 clean solutions system in the town and these systems need to be inspected every 2 years. Mr. Spaulding stated that there have not been any failures and these have been used since 1994. Mr. Spaulding stated that they are getting a reduction in the release of the chemicals. Nitrate is not a freshwater indicator. Phosphorus can impact the algae bloom in the area. Water quality can be improved with sand below the system because this can remove 99 percent of the impurities. Mr. Spaulding has never seen a report that the systems have caused pollution. Mr. Spaulding stated that there are some systems as close as 20 feet. Mr. Spaulding discussed the coffee lots and why they are so small. Mr. Spaulding stated that he cannot find any science to explain why there is a 75-foot distance between the well and septic and why that needed to be mandated. A well that is 40 feet away, he has not seen evidence of pollution.

Mr. Spaulding stated that they do receive notification once the inspection is not done on these systems. A certified letter will also be sent to the homeowner in the event they have not had the system inspected. There are conditions on the approval. There is a conditions process on systems that have been installed more recently.

Mr. Samsel asked about the typical type of deficiencies. Mr. Spaulding stated that there are times when a pumping system might go down but the system not working for a month is not going to have an adverse effect.

Mr. Bob Evans addressed the Board. Mr. Evans stated that the lot was created in 1921. Mr.
Evans stated that there is a case from 1988 which did affect just compensation, a law which was

changed in 1989. Mr. Evans and Chairman McLeod stated that the abutters well are functioning as a taking on the proposed well. Mr. Evans stated that he has seen so much change in the state in the last 40 years. The creation of lots in the state needed to be created based on soil-based testing and setbacks. Mr. Evans stated that bacteria does a great job when it has oxygen. Mr. Evans stated that the department deals with this problem and they try to deal with these on a case by case basis and no one created this decision in a malicious manner. Mr. Evans mentioned it is an artesian well. Mr. Evans stated that these have been improvements over the years.

Mr. Hohenberger addressed the Board and stated that the coffee lots were set up as seasonal cottages. Mr. Hohenberger does think this should be continued in order for the correct map to be properly posted.

Mr. Maguire stated that this plan has been reviewed several times and the waiver can be taken out and the Board can move on.

Chairman McLeod mentioned distances. Mr. McLeod stated that if these are meeting the objectives of the criteria then it meets the objectives set forth. Chairman McLeod stated that putting forth the maintenance on a plan is in compliance with the warrant article.

Vice Chair Partington asked why the septic system was not put closer to their well. Mr. Maynard stated they would be closer to the pond.

Mr. Samsel stated that the importance of their property is paramount and there the variance for the dwelling has been granted. Mr. Samsel stated what they have in the request is an improvement. It probably exceeds what many have existing on their property. Chairman McLeod stated that he can appreciate the struggle that neighbors might have with requests such as this.

A motion was made by Mr. Breton to grant the waivers as requested noting that waiver #3 was removed by the applicant and the Clean Solutions will notify the town if the homeowner does not comply with the maintenance schedule. Seconded by Mr. Maguire.

Grant the relief and include the first paragraph:

To grant the requested waivers of 40 feet to the abutting wells and 64 feet to the onsite well (dropping the waiver request number 3) Section 2.5 of the Water Supply Regulations and Sections 102.2 to the Septic Disposal Regulations and subject further that Clean Solutions will notify the town if the system comes pass due for an inspection and noting that on the plan. The waiver requests are from: Section 102.2 and Section 2.5 and Sections 2.5.1 through 2.5.4.

Vice Chair Partington stated that he will abstain because he is concerned about the plan being incorrect.

394 395	Vote 4-0-1. Vice Chair Partington abstained.
396 397	Mr. Hohenberger rejoined the Board of Health.
398 399	A motion was made by Mr. Breton to adjourn and reconvene as the Board of Selectmen. Seconded by Mr. Samsel. Vote 5-0. Motion passes.
400 401 402	Timber Cut Request
403 404	Scott Marsh Municipal Resources
405 406	Timber Cut Request will be moved to the next meeting
407 408	The Board is missing the amounts and the requests so this will need to go on a future agenda.
409 410	Starting the budget season in mid October instead of mid-November.
411 412 413 414 415	Mr. McCarthy addressed the Board to ask if they would like to start in early to mid October in order for things to be wrapped up before the holidays. People had commitments and it was difficult to get everyone together. Vice Chair Partington is ok with a one-year trial schedule to see how it goes. The Board is willing to try this to see how it will work; the Board is concerned i will make the budget season longer instead of shorter. Mr. McCarthy would like to have the
416 417 418 419	budget season wrapped up by Thanksgiving.  Mr. Wayne Morris addressed the Board to say that a later meeting date might allow for more preparation not over the holiday season.
420 421 422	The Board briefly discussed the meeting schedule for the summer.
423 424 425	Mr. Hohenberger discussed the update from Wilcox and Barton. Mr. McCarthy is trying to get him in for the next meeting.
426 427	Wendy Williams resigned from her position as a Chair of the HDHC.
428 429 430	A motion was made by Mr. Hohenberger to accept Ms. Williams' resignation as a member of the HDHC. with regrets. Seconded by Mr. Samsel. Vote 5-0. Motion passes.
431 432 433 434	A motion was made by Mr. Hohenberger to go into non-public under RSA 91A: 3 (a) (b) and (d). Seconded by Mr. Breton. Roll call vote: Chairman McLeod, Vice Chair Partington, Mr. Hohenberger, Mr. Samsel, and Mr. Breton- yes. Vote 5-0. Motion passes.
435 436	Respectfully submitted by Anitra Lincicum
137	The following non-nublic minutes were respectfully submitted by Mr. McCarthy

Ruth Robertson - Personnel #1 – PT Tax collector - Ms. Robertson discussed the candidate and their credentials. Mr. Hohenberger made a motion to hire the recommended candidate at Grade 9 step 1 (\$20.45), seconded by Mr. Samsel. Motion passed 5-0.

Dennis Senibaldi - Personnel #2 – FT Highway Laborer- Mr. Senibaldi discussed the candidate and their credentials. Mr. Hohenberger made a motion to hire the recommended candidate at grade 13 step 2 (\$26.15), seconded by Mr. Samsel. Motion passed 5-0. Personnel #3 – FT Transfer station operator – Mr. Senibaldi discussed the candidate and their credentials. Mr. Samsel made a motion to hire the recommended candidate at grade 13 step 1 (\$24.90), seconded by Mr. Breton. Motion passed 5-0.

Wayne Morris - Discussion relating to a potential land purchase by the Conservation Committee. The Board opted to individually view the property prior to making any additional decisions.

TA McCarthy - Discussion relating to revising the Police and Fire Department Administrative Assistant positions. The Board was not in support of revisions to these positions at this time and will consider the request at the next union negotiations.

Mr. Hohenberger made a motion to exit non-public session, seconded by Mr. Partington. Motion passed 5-0.

Mr. McLeod announced the Board's decisions made during non-public.

Mr. Hohenberger made a motion to approve the May 22, 2023, minutes as amended, seconded by Mr. Partington. Motion passed 5-0.

Mr. Hohenberger made a motion to adjourn, at 10:59 pm, seconded by Mr. Partington. Motion passed 5-465 0.

467 Meeting adjourned.